IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.18215 of 1998

Between:

S. Sankaraiah S/o. Pitchaiah
Dr. S.R.J. Degree College,

Atmakur - 524 322, Nellore District.

..... PETITIONER

AND

1 The State of Andhra Pradesh rep. by its Secretary,
Higher Education Department, Secretariat Buildings, Hyderabad.
2 The Director of Higher Education, Govt of Andhra Pradesh, Hyderabad.
3 The Regional Joint Director, Higher Education, Guntur, Guntur district.
4 The Secretary & Correspondent Dr. S.R.J. Degree College,
Atmakur - 524 322, Nellore district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents as illegal, arbitrary, unconstitutional and without jurisdiction in removing petitioner from service as Typist by the proceedings Rc.No.18-TYP/ENQ/96 dated 22.01.1997 of respondent No.4 and consequential orders of respondent No.3 dtd. 10.7.1997 and G.O.Rt.No.213 Edn., dated 26.2.1998 of respondent No.1 and the proceedings Rc.No. 2386/B2/98 dated 28.5.1998 of the respondent No.3 and the proceedings of respondent no.3 in Rc.No. 3717/B2/96 dated 10-7-1997; consequently direct the respondents to reinstate the petitioner into service in the respondent No.4 college with all consequential benefits such as continuity of service and back wages from the date of removal from service.

Counsel for the Petitioner: Mr.K.V.SUBBA REDDY

Counsel for the Respondents 1 to 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.4: Mr.Y.Venkat Kishore

The Court made the following :

-

ORDER:

Petitioner while working as Typist with the 4th respondent was removed from service with effect from 22-1-1997 for certain misconduct alleged against him, after conducting a detailed inquiry into the matter. Aggrieved by the same, he filed an appeal before the 3rd respondent-Regional Joint Director of Higher Education, Guntur. By a cryptic order, the appeal was dismissed on 10-7-1997. Against the same, he filed further appeal before the 1st respondent-Government. The 1st respondent vide G.O.Rt.No.213 Edn., dated 26-2-1998 dismissed the appeal holding that the management had followed the procedure prescribed before terminating the services of the petitioner viz., conducting of inquiry, issuing of show cause notice, furnishing of inquiry report, resolution of the Governing body and approval of the competent authority as per the provisions of the A.P. Education Act. Further, petitioner had not putforth any new grounds before the Government against the orders of the 3rd respondent. Present writ petition is filed challenging the above Orders.

At the outset, learned counsel for petitioner submitted that there was gross violation of principles of natural justice inasmuch as 4th respondent was concerned. The 4th respondent being the complainant himself issued charge sheet, appointed Inquiry Officer, examined himself as a witness in the inquiry, after submission of inquiry report placed the matter before the Governing body in which he also participated and thereafter, the decision of the general body removing the petitioner from service was sent for approval of the 3rd respondent. Thus, the 4th respondent acted as a judge in his own case resulting in prejudice to the interest of the petitioner. The disciplinary proceedings were initiated at his instance complaining that the petitioner was willfully evading to perform the work of non-aided sections, inciting other aided non-teaching staff to follow him and committed theft of vital college files and

misbehaved, particularly while dealing with 4th respondent by not allowing him to open the almyrah where the files were lying.

Heard the learned Government Pleader for Higher Education at length.

A perusal of the report submitted by the 4th respondent dated 15-1-1997 to the 3rd respondent would reveal that the Inquiry Officer examined Sankaraiah (petitioner) and nine others including Secretary and Correspondent, Principal and the non-teaching staff, who personally witnessed the happenings on 14-9-1996. During the course of inquiry, petitioner replied that on 14-9-1996 while 4th respondent was searching for local delivery register in the exclusive rack No.1, which was in joint use both by the Principal and himself, 4th respondent reached the rack personally to see what was there in the rack and wanted to take certain record files which belong to the Principal. Then, the petitioner himself submitted to 4th respondent stating that the files belong to the Principal, Lecturer in Economics and Ex-Principal of the College and as such, they can be taken after informing him. Petitioner also attributed that 4th respondent accused him in unparliamentary language. Further, 4th respondent at whose instance the enquiry was launched, issued the charge memo dated 28-10-1996 and he also appeared as a witness before the Enquiry Officer and also participated in the General Body Meeting for putting forth the case of the petitioner before it. Ultimately, he is the person, who sent the resolution of the Governing Body of the College dated 13-1-1997 wherein it was unanimously decided to remove the petitioner from services of the College, to 3rd respondent for approval.

In this regard, learned Government Pleader appearing for respondents 1 to 3 contended that mere framing of charges and participating in the general body meeting and also appearing as a witness in the inquiry and sending resolution of the general body meeting for approval of 3rd respondent cannot be said to be violation of principles of natural justice. Further, it cannot be said that 4th respondent was judge in his own cause. Respondent No.4 merely performed the duties entrusted to him dispassionately and no bias or violation of principles of natural justice could be attributed to him. I am afraid, I cannot agree with the above submissions.

Admittedly, at every stage of the proceedings, right from the complaint, issuance of charge sheet, appointment of Inquiry Officer, participating as a witness in the inquiry,

putting forward his decision for approval of the Governing body and sending the same for further approval of the 3rd respondent and passing the impugned Proceedings by himself would clearly show that the 4th respondent acted as a Judge in his own cause. Therefore, the bias against 4th respondent cannot be abated, even if it is assumed that he was dispassionate and no *mala fides* can be attributed to him. In the light of the above, it cannot be said that petitioner has not suffered any prejudice to his interest. Hence, I am of the considered opinion that this is a case where 4th respondent acted as a judge in his own cause grossly violating the principles of natural justice and as such, the order dated 22-1-1997 passed by the 4th respondent as confirmed in the appeal by the 3rd respondent by Order dated 10-7-1997 and by the 1st respondent in G.O.Rt.No.213, dated 26-2-1998 are set aside.

Accordingly, the writ petition is allowed. Consequently, the petitioner is entitled for reinstatement with all consequential benefits. However, this will not preclude the authorities from initiating disciplinary proceedings against the petitioner afresh. No order as to costs.

20th August, 2004

Prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Twentieth day of August Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to Government,
Higher Education Department, Secretariat Buildings, Hyderabad.
2 The Director of Higher Education, Government of Andhra Pradesh, Hyderabad.
3 The Regional Joint Director, Higher Education, Guntur, Guntur district.
4 The Secretary & Correspondent Dr. S.R.J. Degree College,
Atmakur - 524 322, Nellore district.

5.2CCs to Govt.Pleader for Higher Education, High Court Buildings, Hyderabad (O.U.T.).

6.2CD copies